

Application Ser. No. 10/002,723
Attorney Docket No. 4740-029
Client Ref. No. P12793-US2

REMARKS

In the current Office Action, the Examiner rejects claims 1-8, 13-24, 41-46, and 50-59 under §102(e) as being anticipated by Madour (U.S. Pat. Pub. No. 2002/0114293). Applicant notes, however, that the Examiner previously rejected independent claims 1 and 41 under §102(e) citing the same Madour reference.¹ Applicant's response of January 3, 2004 successfully overcame those rejections resulting in the Examiner removing Madour from consideration. Except for a minor typographical correction made to the preamble of claim 41, independent claims 1 and 41 have not been amended. Therefore, the current re-application of the Madour reference in a §102 rejection to claims 1 and 41 is inappropriate. Indeed, Madour is no more *legally legitimate* as a §102 reference now than it was before.

Claims 1 and 41 are directed to a network entity identified as a "session controller," or to methods of using/operating a session controller. Madour fails to disclose – or even suggest – the claimed session controller. Nor does Madour suggest an entity that even functions similar to the claimed session controller. What Madour discloses is using an "origination message" sent from a mobile node (MN) to apprise a Packet Data Service Node (PDSN) at the network of the MN's dormant state. The whole thrust of Madour is that these messages allow the PDSN to recognize which MNs have gone dormant and properly manage network-initiated packet data delivery to such MNs. Applicant respectfully requests that the Examiner re-visit Applicant's January 3, 2004 response, which is incorporated herein by reference. Madour did not at that time disclose a session controller, or hint at anything functionally like the claimed session controller. It does not do so now, either.

The current rejection differs from the previous Madour rejection in that the Examiner merely removes the explicit statement equating the Base Station Controller of Madour to the claimed session controller. That is, the latest Office Action does not specify which entity in the

¹ See Office Action dated October 6, 2004.

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Madour reference allegedly is the claimed session controller. However, removing this unsupported allegation while retaining the same incorrect assertion of what the reference teaches does not legitimize Madour as §102 reference. A legitimate §102 rejection requires that a single prior art reference disclose each and every element of that claim exactly as claimed. Madour fails to meet this legal standard. Madour does not disclose a session controller, and as such, fails to anticipate the claimed invention.

In light of the foregoing remarks, Madour fails to anticipate claim 1, claim 41, and each of their respective dependent claims. Accordingly, Applicant respectfully requests the Examiner withdraw the §102 rejection and allow all pending claims.

Respectfully submitted,

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